

STATE OF CONNECTICUT
DEPARTMENT OF HEALTH SERVICES
DIVISION OF MEDICAL QUALITY ASSURANCE

1981 05 22 036 002

IN RE

Patrick Francis Hobart, Jr., R.N.
License No. 357
Whitewood Manor Nursing Home
177 Whitewood Road
Waterbury, Connecticut

MEMORANDUM OF DECISION

On September 30, 1983, a hearing was held before Laurence P. Rubinow, Hearing Officer, on charges of unacceptable conduct brought by the Connecticut Department of Health Services (petitioner) against Patrick Francis Hobart, Jr., R.N., (respondent), a person licensed to practice as a nursing home administrator.

FACTS

1. On September 14, 1983, the respondent was duly served with a Notice of Hearing to be held on September 30, 1983, at 10:00 a.m. in Room 110, Department of Health Services, 79 Elm Street, Hartford, Connecticut.
2. On September 14, 1983, the respondent was duly served with a Statement of Charges brought by the petitioner against the respondent.
3. The respondent did not file an answer to the Statement of Charges.
4. The respondent did not appear at the hearing on September 30, 1983 at 10:00 a.m.; the respondent did not at any time request that the hearing be postponed or delayed in any way; the respondent has not at any time offered any excuse or justification for not appearing at the hearing.
5. At all pertinent times herein, the respondent was licensed to practice as a nursing home administrator in Connecticut with license number 357.

6. At all pertinent times herein, the respondent was a licensed administrator of a nursing home facility known as the Derby Nursing Home, Inc., and, also the Derby Convalescent Home, Inc., located on Chatfield Street, Derby, Connecticut.

7. In 1975, the State of Connecticut initiated a prospective costrelated reimbursement system. Under this system, the annual patient-care related expenses of each nursing home facility would be divided by the annual patient days of care the facility rendered to determine a per diem rate for that facility. This system bases its computations upon the "Annual Report of Long Term Care Facility" (Cost Report) required to be submitted to the Department of Income Maintenance (DIM) by each facility. The Cost Report is the document that the facility uses to summarize its financial operations for the fiscal period beginning October 1 and ending September 30 of each year. When the Cost Report is submitted to the DIM a per diem rate based on this Cost Report is determined by dividing total patient days of care provided during the period into the total allowable patient care costs.

8. Pursuant to State of Connecticut regulations, Section 17-311-60 and 17-311-62 and Subchapter 18, Part A of Title 42 of the U.S. Code, Section 1395 et. seq. to be allowable for inclusion in the Medicaid per diem rate, all costs for which reimbursement is claimed in the Cost Report must be reasonable and directly related to the provision of patient care. Expenditures made for the personal comfort, convenience or transportation of owners/operators/employees are not allowable. Also unallowed are expenditures made for the protection, enhancement or promotion of a provider's interest.

9. The respondent, in his capacity as administrator of such nursing

home facility, filed Cost Reports with the DIM for the fiscal years ending September 30, 1975 through September 30, 1978.

10. In the Administrators Certification in said Cost Reports filed by the respondent with the DIM, the respondent subscribed his name to the Certification and made the following sworn statement:

I have read this Report and hereby certify that the information provided is true and correct to the best of my knowledge under the penalty of perjury. I also certify that all salary and non-salary expenses presented in this Report as a basis for securing reimbursement for Title XIX patients, were incurred to provide patient care in this Facility.

11. In the Cost Reports filed by the respondent with the DIM for the fiscal years ending September 30, 1975 through September 30, 1978, a substantial number of expense items were included that were not directly related to providing patient care.

12. In the Cost Reports filed by the respondent with the DIM for the fiscal years ending September 30, 1975 through September 30, 1978, expenses were included that were not directly related to providing patient care, and the respondent knew that expenses were included that were not directly related to providing patient care.

13. Including these expenses in the Cost Reports filed by the respondent with the DIM for the fiscal years ending September 30, 1975 through September 30, 1978, resulted in an overpayment by the State of Connecticut of Sixty-Four Thousand Seven Hundred Twenty-Six Dollars (\$64,726.00).

14. On May 21, 1981, in the Superior Court for the Judicial District of Hartford/New Britain, Brian O'Neill, J., the respondent was convicted of two counts of larceny in the first degree, in violation of Conn. Gen. Stat. Sections 53a-119, 53a-122(a)(2), and 53a-121(b).

15. The conviction was based upon the expenses that the respondent had improperly included and the resulting overpayment.

16. On June 15, 1981, in the Superior Court for the Judicial District of Hartford/New Britain, Daly, J., the respondent was sentenced to a suspended on-to-three year prison term, fined Twenty Thousand Dollars (\$20,000.00), and ordered to repay the State of Connecticut as restitution an additional amount of Seventy-Two Thousand Dollars (\$72,000.00); the restitution was made on October 23, 1981.

17. By letter to the respondent dated August 12, 1983, the Department of Health and Human Services, pursuant to its authority under Section 1128(a)(1) of the Social Security Act (42 U.S.C. 1320a-7), suspended the respondent from participation in the Title XVIII (Medicare) and Title XIX (Medicaid) programs for a period of ten (10) years from August 27, 1983.

DISCUSSION

1. During the period in which the respondent was a licensed nursing home administrator for the skilled nursing facility known as the Derby Nursing Home, Inc., the respondent violated the provisions of Conn. Gen. Stat. Section 19a-517(b)(1) in that he engaged in fraudulent or material deception in the course of his professional services or activities and in that he engaged in illegal conduct in the practice of his profession, specifically with reference

to the filing of fraudulent Cost Reports for the fiscal years ending September 30, 1975 through September 30, 1978.

ORDER

Pursuant to Conn. Gen. Stat. Section 19a-17, the Commissioner of Health Services orders suspension of the respondent-practitioner's license to practice as a nursing home administrator until August 27, 1993. Such suspension shall commence on December 8, 1983.

Dated at Hartford, Connecticut this 2 day of December, 1983.

CONNECTICUT DEPARTMENT OF HEALTH SERVICES

Douglas S. Lloyd, M.D.
Douglas S. Lloyd, M.D., M.P.H.
Commissioner